

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

CIVIL CASE NO. 3:06cv162

GARDEN CITY BOXING CLUB, INC.,)

Plaintiff,)

vs.)

ORDER

**HECTOR M. BRAMBILA, doing)
business as ZAPATA'S CANTINA)
MEXICAN RESTAURANT,)**

Defendant.)

THIS MATTER is before the Court *sua sponte* to provide the Plaintiff with notice pursuant to Federal Rule of Civil Procedure 4(m).¹

On April 6, 2006, the Plaintiff Garden City Boxing Club, Inc. filed a Complaint against the Defendant Hector M. Brambila, doing business as Zapata's Cantina Mexican Restaurant. [Doc. 1]. To date, the Plaintiff has not effected service on the Defendant. Rule 4(m) of the Federal Rules of Civil Procedure provides, in pertinent part, as follows:

If a defendant is not served within 120 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action

¹This case was assigned to the undersigned on April 2, 2009.

without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

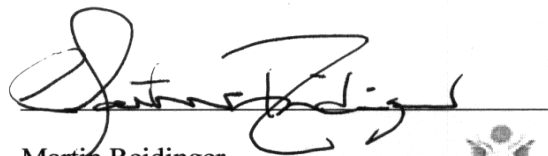
Fed. R. Civ. P. 4(m).

The Plaintiff is hereby placed on notice that unless good cause is shown to the Court for the Plaintiff's failure to effect service of the summons and complaint on the Defendant within seven calendar (7) days from service of this Order, the Plaintiff's action against the Defendant shall be dismissed without prejudice without further order.

IT IS, THEREFORE, ORDERED that the Plaintiff shall show good cause within seven (7) calendar days of service of this Order for the failure to effect service on the Defendant within 120 days from the filing of the complaint; and

IT IS FURTHER ORDERED that failure of the Plaintiff to respond in writing within seven calendar (7) days shall result in a dismissal without prejudice of this action without further order of the Court.

Signed: April 3, 2009


Martin Reidinger
United States District Judge

